

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JO ELLYN SCHIPPER,

Plaintiff,

v.

Case No. 19-12163  
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE’S REPORT  
AND RECOMMENDATION, DENYING DEFENDANT’S MOTION FOR  
SUMMARY JUDGMENT, GRANTING IN PART AND DENYING IN PART  
PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT AND  
REMANDING MATTER**

On July 24, 2019, Plaintiff filed this lawsuit challenging a final decision of the Commissioner denying her application for social security benefits. On the same date, this Court referred the lawsuit to Magistrate Judge David R. Grand for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation (“R&R”) on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). The parties subsequently filed cross-motions for summary judgment.

On April 7, 2020, Magistrate Judge Grand issued an R&R recommending that this Court deny Defendant's motion, grant in part and deny in part Plaintiff's motion, and remand the matter for further proceedings. (ECF No. 20.) Magistrate Judge Grand concludes that the record lacks substantial evidence supporting the ALJ's assessment of Plaintiff's residual functional capacity ("RFC"), as the ALJ's determination was made without the benefit of any medical opinion. At the conclusion of the R&R, Magistrate Judge Grand advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. Defendant filed objections on April 21, 2020. (ECF No. 21.) Plaintiff filed a response to Defendant's objections on May 3, 2020. (ECF No. 22.)

When objections are filed to a magistrate judge's R&R on a dispositive matter, the Court "make[s] a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). The Court, however, "is not required to articulate all of the reasons it rejects a party's objections." *Thomas v. Halter*, 131 F. Supp. 2d 942, 944 (E.D. Mich. 2001) (citations omitted). A party's failure to file objections to certain conclusions of the report and recommendation waives any further right to appeal on those issues. *See Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to certain conclusions in

the magistrate judge's report releases the Court from its duty to independently review those issues. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985).

The Court has made a *de novo* determination of those portions of the R&R to which Defendant objects and reaches the same conclusion as Magistrate Judge Grand. While there are some cases where a medical opinion is not needed to formulate a plaintiff's RFC, *see, e.g., Tucker v. Comm'r of Soc. Sec.*, 775 F. App'x 220, 226 (6th Cir. 2019) ("No bright-line rule exists in [this] circuit directing that medical opinions must be the building blocks of the residual functional capacity finding"), this is not one of those cases. Here, the ALJ failed to identify the medical evidence supporting her conclusions as to Plaintiff's RFC and the medical evidence and Plaintiff's impairments were not so straight-forward that the ALJ could "render a commonsense judgment about functional capacity." *Gross v. Comm'r of Soc. Sec.*, 247 F. Supp. 3d 824, 828 (E.D. Mich. 2017) (citations omitted).

The Court therefore adopts Magistrate Judge Grand's recommendations.

Accordingly,

**IT IS ORDERED** that Plaintiff's motion for summary judgment (ECF No. 16) is **GRANTED IN PART AND DENIED IN PART**;

**IT IS ORDERED** that Defendant's motion for summary judgment (ECF No. 18) is **DENIED**.

**IT IS FURTHER ORDERED**, that the decision denying Plaintiff's application for benefits is **REVERSED** and this matter is **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

**IT IS SO ORDERED.**

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: June 8, 2020